

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CARYL VONDRA, Personal Representative of
the Estate of Melvin Vondra,

WILLIAM MEYERS, Personal Representative
of the Estate of Patricia Meyers,

COREY ILG, Personal Representative of the
Estate of Duane Ilg,

Plaintiffs,

v.

BARTON SOLVENTS INC., CHEVRON U.S.A.
INC., CITGO PETROLEUM CORPORATION,
SHELL CHEMICAL, L.P., d/b/a SHELL
CHEMICAL CO., SHELL OIL CO., UNION OIL
COMPANY OF CALIFORNIA d/b/a UNOCAL
CORP.,

Defendants.

Case No. 8:07CV85

**MOTION FOR
SUMMARY JUDGMENT OF
DEFENDANT BARTON SOLVENTS
INC.**

COMES NOW Defendant Barton Solvents Inc. pursuant to Rule 56 of the Federal Rules of Civil Procedure and Local Rule 56.1, and hereby moves the Court for an Order of Summary Judgment in its favor on all claims presented by Caryl Vondra, Corey Ilg and William Meyers ("Plaintiffs") in their Fourth Amended Complaint (Filing No. 180) because there is no genuine issue of material fact in relation to such claims and Defendant is entitled to judgment as a matter of law for one or more of the following reasons:

1. Defendant did not, as a matter of law, owe Plaintiffs a duty to warn of an unreasonably dangerous condition of the products allegedly manufactured, distributed, supplied or marketed by Defendant where Goodyear was a sophisticated user of the products to which Plaintiffs were allegedly exposed;

2. Defendant is entitled to summary judgment on Plaintiffs' strict liability and implied warranty claims because Defendant did not sell or distribute any defective or

“unreasonably dangerous” products to Goodyear, or fail to adopt a reasonable alternative design;
and

3. Because there is no evidence to support proximate causation, an essential element of Plaintiffs’ claims, Defendant is entitled to summary judgment on all of Plaintiffs’ claims as a matter of law.

WHEREFORE Defendants respectfully request the Court enter judgment in favor of Defendant on Plaintiffs’ claims, Counts I through V, as a matter of law.

Dated this 29th day of December, 2008.

BARTON SOLVENTS, INC., Defendant

By /s/ Walter E. Zink II

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CERTIFICATE OF SERVICE

I hereby certify that on December 29, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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